

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,**

**v.**

**CASE NO. 3:23-MJ- 26**

**GERARD ANTHONY TONSIL, JR.,**

**Defendant.**

**AFFIDAVIT**

I, Seth A. Cox, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), being duly sworn, depose and state as follows:

1. I am a “Federal law enforcement officer” within the meaning of Rule 41 of the Federal Rules of Criminal Procedure, that is, a government agent engaged in enforcing the criminal laws and I am within the category of officers authorized by the Attorney General to request a search warrant.
2. I have been a Special Agent with the ATF since September 2014. I am a graduate of the Uniform Police Training Program and Criminal Investigator Training Program at the Federal Law Enforcement Training Program in Glynco, Georgia. This included training in the investigative techniques of criminal violations of the Gun Control Act (18 U.S.C. ch. 44) and the National Firearms Act (26 U.S.C. ch. 53). Prior to joining ATF, I was an officer with the United States Park Police in Washington, DC for close to five years. I have a Bachelor of Arts in Criminology and a Master's in Public Administration from West Virginia University.
3. On February 6, 2022, staff at Berkeley Springs Trading Post (“BSTP”), a Federal Firearms Licensee (“FFL”), contacted the ATF Martinsburg field office. BSTP is located at 3711 Valley Road, Berkeley Springs, West Virginia, which is within the Northern District of

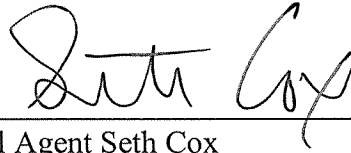
West Virginia. BSTP employees were concerned about suspicious purchasing behavior within their store. BSTP identified the firearms purchaser as Nakita LAKE (hereinafter "LAKE"). LAKE was accompanied by a male individual on multiple occasions, who was later identified through investigation and store surveillance footage as Gerald TONSIL (hereinafter "TONSIL").

4. BSTP personnel advised that LAKE had visited their store on three occasions and purchased firearms on each occasion while paying in cash only. LAKE was also accompanied by TONSIL on each visit. LAKE, while accompanied by TONSIL, purchased six handguns over a seven day period.
5. ATF obtained copies of the ATF Form 4473s for each of LAKE's BSTP purchases, that provided the following information:
  - a. On January 30, 2022, LAKE purchased a Beretta APX Carry, 9mm Pistol bearing serial number AXC047586;
  - b. On January 31, 2022, LAKE purchased the following firearms:
    - i. Springfield Armory XDS Mod 2, .45 caliber Pistol bearing serial number BA675922;
    - ii. Smith & Wesson SD40 .40 caliber Pistol bearing serial number FDN8894;
    - iii. Glock G27, .40 caliber Pistol bearing serial number AFPE793;
  - c. On February 5, 2022, LAKE purchased the following firearms:
    - i. Glock 27, .40 Caliber Pistol bearing serial number BVVP522; and
    - ii. Glock 27, .40 caliber Pistol bearing serial number BVVP814.
6. For each ATF Form 4473 referenced above, LAKE provided a written, affirmative response that she was the true purchaser for each firearm purchased.

7. After reviewing the ATF Form 4473s, agents continued to investigate the purchases and learned that LAKE was TONSIL's sister. Agents also interviewed LAKE and their brother, Damien Tonsil. LAKE and Damien Tonsil confirmed that TONSIL accompanied LAKE to the firearm purchases. The investigation revealed that Gerald TONSIL rode with LAKE to BSTP on multiple occasions, and he provided LAKE with cash prior to entering the store so that she could purchase the firearms on TONSIL's behalf. On one occasion, LAKE provided a firearm to TONSIL directly outside of the store shortly after purchase. The remaining firearms were taken back to LAKE's residence where TONSIL retrieved them. LAKE also admitted that TONSIL was not allowed to be around firearms because he was a felon.
8. In the course of the investigation, investigators obtained phone messages between TONSIL and LAKE. These messages provided further evidence of TONSIL requesting LAKE to assist in the purchase of firearms on his behalf. The messages were recorded contemporaneously with firearm purchases in January 2022 and February 2022. TONSIL also made comments to LAKE that he would meet her on January 31, 2022, after he stated "tryna sell this last joint." I know from my training and experience that "joint" is a common slang term for a handgun.
9. ATF investigators placed the firearms purchased by LAKE and TONSIL on the ATF suspect gun listing to be noticed if they were recovered and traced in any instances nationwide by law enforcement. In May and September 2022, two of the firearms purchased in West Virginia at BSTP were recovered in shooting incidents in Nassau County, New York. This indicated a short time to crime transfer of the firearms from the Northern District of West Virginia to their use in crimes in Nassau County, New York. I know from training and experience that firearms generally purchased in source areas such

as the Eastern Panhandle of West Virginia are often “trafficked” to market areas, as in this instance, to the New York City metropolitan area.

10. Based on the facts above, I believe that TONSIL aided and abetting a false statement in connection with the acquisition of a firearm. LAKE falsely stated on the ATF Form 4473 that she was the true purchaser of the firearm when she knew TONSIL was the true purchaser. Further, the investigation revealed that TONSIL took receipt of these firearms almost immediately after leaving BSTP, all in violation of 18 U.S.C. § 2 and 18 U.S.C. § 922(a)(6).



Special Agent Seth Cox  
Bureau of Alcohol, Tobacco, Firearms & Explosives

Sworn to and subscribed to me this 16th day of February, 2023.



ROBERT W. TRUMBLE  
UNITED STATES MAGISTRATE JUDGE